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EXAMINER

CHEA, PHILIP J

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/570,832	Applicant(s) WOUNDY, RICHARD	
	Examiner PHILIP J. CHEA	Art Unit 2453	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 14-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 14-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This Office Action is in response to an Amendment filed June 23, 2008. Claims 1-7,14-17,21-28 are currently pending, of which claims 21-28 are new. Any rejection not set forth below has been overcome by the current Amendment.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 22 recites the limitation "the same protocol" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1-2,6-7,14-15,19-20 are rejected under 35 U.S.C. 102(a) as being anticipated by Tamura (US 2003/0048380).

As per claims 1,14, Tamura discloses a system of Internet Protocol (IP) provisioning for use in a cable network having a network provisioning unit (NPU) in communication with a plurality of embedded settop boxes (eSTBs) (see Fig. 1), the method comprising:

receiving eSTB IP provisioning requests from eSTBs provided by at least two different vendors, the eSTB IP provisioning requests outputted according to a first protocol (see paragraphs [0002] [0025] and [0027], where a STB is purchased from any retail outlet (i.e. vendor) implying at least two different

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vendors and the STB sends out a request to a service provider to be provisioned upon power up (i.e. first protocol)); and

transmitting eSTB IP provisioning data from the NPU to the eSTBs requesting the eSTB IP provisioning, wherein the eSTB IP provisioning data is outputted according to the first protocol such that provisioning of the eSTBs is standardized for each vendor (see paragraph [0027], *where the vendor information such as serial number, device type, or smart card identifier is sent to the service provider in order for the service provider to properly communicate with the STB, then the service provider transmits the provisioning data to the STB in the form of account information (e.g. account number) to complete establishment and activation of an account*).

As per claims 2,15, Tamura further discloses selecting the eSTB IP provisioning data according to the vendor of the requesting eSTB (see paragraph [0027]).

As per claims 6,19, Tamura further discloses that each eSTB is associated with Customer Premise Equipment (CPE) and wherein each CPE includes an embedded cable modem (eCM), and the method further comprises bridging IP signals through the eCM to the eSTB (see paragraph [0022]).

As per claim 7,20, Tamura further discloses that the first protocol is defined according to a Dynamic Host Configuration Protocol (DHCP) (see paragraph [0008]).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3-5,16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tamura as applied to claims 2,9,15 above, and further in view of Meza (US 7,287,257).

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As per claims 3,16, although the system disclosed by Tamura shows substantial features of the claimed invention (discussed above), it fails to disclose determining the vendor of the requesting eSTB using the NPU based on an eSTB vendor identifier included in the eSTB IP provisioning request.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Tamura, as evidenced by Meza.

In an analogous art, Meza discloses a system for automatically detecting the attachment of a peripheral device to a host system and configuring the host system for communication with the peripheral device (see Abstract). Meza further disclose determining the vendor of the peripheral device using the vendor identifier included in the configuration request (see column 12, lines 3-16, *showing how a peripheral vendor id is used to determine the vendor and where the peripheral requesting the device driver is analogous to the eSTB*).

Given the teaching of Meza, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Tamura by employing a vendor id to determine a vendor, such as disclosed by Meza, in order to use the provisioning method supported by the particular vendor

As per claim 4, Tamura in view of Meza renders obvious a database comprising IP provisioning data associated by vendor identifiers with a plurality of eSTB vendors, and wherein determining the vendor of the requesting eSTB includes searching the database for a vendor identifier that matches with the eSTB vendor identifier (see Meza column 12, lines 3-16, *describing how a database at a server is used to match the vendor identifier of a peripheral (analogous to the eSTB) to provide the proper device driver (analogous to the provisioning data)*).

As per claims 5,18, Tamura further discloses that the eSTB vendor identifier includes at least one of a serial number, a hardware version, a software version, an Organization Unique Identifier (OUI), a model number, or a vendor name (see paragraph [0027]).

8. Claims 21-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tamura, and further in view of Addington et al. (US 2004/0261126), herein referred to as Addington.

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As per claim 21, Tamura discloses a method of provisioning settop boxes (STBs) to execute a set of operations associated with supporting media services provided by a media service provider, the method comprising:

receiving provisioning requests from the STBs (see paragraphs [0002] [0025], *where a STB is purchased from any retail outlet (i.e. vendor) implying at least two different vendors and the STB sends out a request to a service provider to be provisioned upon power up*);

providing provisioning instructions to the requesting STBs, the provisioning instructions being sufficient to program the requesting STBs to execute the set of operations associated with supporting the media service provided by the media service provider (see paragraph [0027], *where the vendor information such as serial number, device type, or smart card identifier is sent to the service provider in order for the service provider to properly communicate with the STB, then the service provider transmits the provisioning data to the STB in the form of account information (e.g. account number) to complete establishment and activation of an account*).

Although the system disclosed by Tamura shows substantial features of the claimed invention (discussed above), it fails to disclose that the STBs have different instructional requirements depending on whether the STBs are provided by a first or second vender; provisioning instructions according to the different instructional requirements of the first and the second vendors identified to be associated with the requesting STBs.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Tamura, as evidenced by Addington.

In an analogous art, Addington discloses flexible methods for provisioning, configuring and controlling a host embodied in a cable set top box (see Abstract). Addington further discloses the need to provision cable equipment from multiple vendors (see paragraph 19). Addington also discloses that the STBs have different instructional requirements depending on whether the STBs are provided by a first or second vender (see paragraph 19, *describing how a Motorola and Scientific-Atlanta access scheme and messaging are different*); provisioning instructions according to the different instructional requirements of the first and the second vendors identified to be associated with the requesting STBs (see paragraphs 58-

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59 and 64, *describing a configuration message set used to configure and enable a specific set top box using a specific protocol messages for configuring the host*).

Given the teaching of Addington, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Tamura by employing STBs with different instructional requirements and provisioning instructions according to the different instructional requirements of the first and second vendors, such as disclosed by Addington, in order to provide an economical way to accommodate different conditional access implementations.

As per claim 22, Addington further discloses that the provisioning requests are received and the provisioning instructions are sent according to the same protocol (see paragraph 64).

As per claim 23, Addington further discloses that the media provider provides the media services with assistance from a first and second headend unit, and where the method further comprises adjusting the provisioning instructions depending on whether the requesting STBs are associated with the first or second headend unit (see paragraphs 105 and 108).

As per claim 24, Addington further discloses that the media provider provides the media services with assistance from a first and second headend unit that are respectively associated with third and fourth vendors and the STBs have different instructional requirements depending on whether the STBs are receiving signals from the headend of the third or fourth vendor, wherein the method further comprises providing the provisioning instructions to the requesting STBs according to the different instructional requirements of the first and second vendors as well as the third and fourth vendors (see paragraph 116 and 123, *although only 3 brands are mentioned, it is obvious that 4 brands could be serviced because it would only require programming of the fourth brand*).

As per claim 25, Addington further discloses that the first and second vendors are different from the third and fourth vendors (see paragraphs 58-59 and paragraph 116).

As per claim 26, Addington further discloses that the third vendor is different from the fourth vendor (see paragraphs 58-59 and paragraph 116).

As per claim 27, Addington further discloses at least one of the first or second vendors is the same as one of the third and fourth vendors (see paragraph 123).

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As per claim 28, Addington further discloses that the STBs are configured to process television signals for output to a display and the method further comprises transmitting the provisioning instructions to the STBs over a cable television network (see Fig. 15).

Response to Arguments

9. Applicant's arguments filed June 23, 2008 have been fully considered but they are not persuasive.

A) Applicant contends that Tamura does not disclose multiple vendors of STBs.

In considering A), the Examiner respectfully disagrees. The claim is not clear on whether the vendor has to do with the service provider or the actual STB. The claim merely requires that the STBs are provided by at least two different vendors, which does not actually equate to STBs built and assembled by two different vendors. The Examiner believes that Tamura still reads on the claim even if Tamura is concerned with multiple vendors of cable services and not multiple vendors of STBs.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHILIP J. CHEA whose telephone number is (571)272-3951. The examiner can normally be reached on M-F 6:30-4:00 (1st Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Art Unit 2453

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